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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1520 OF 2006
IN
SUIT NO.1880 OF 1989

Custodio Salvador Martis
alias Simon and others ... Plaintiffs
versus
Shivanand Sanjeevan Kamat
and others ... Defendants

Ms.Leena Kotian for plaintiff no.9.

Mr.Prakash Fernandes for plaintiffno.2.

Mr.Santosh Shetty i/y M.P.Vashi for defendant no.1.

CORAM : A.M.KHANWILKAR, J.

DATE : 31st July 2007

PC :

1. Heard counsel for plaintiff no.2 who is the only person opposing grant of relief in terms of the Chamber Summons. Prayer clause (a) of the Chamber Summons reads thus :-

> (a) That the Plaintiff Nos.3 to 5, 6(a), 6(b) and 7(b), 7(c) & 7(d), 8 and 9 (Applicants Nos.1 to 10) be ordered to be transposed as Defendant Nos.4,5,6,7,8,9,10,11,12 and 13 respectively, as the Plaintiffs (except

> Plaintiff no.2) as well as Defendant Nos.2 and 3 have already settled the matter with the first Defendant who is in possession of the Hotel premises viz. Hollywood Stores & Restaurant (now know as "Dwarka Vegetarian Restaurant) situated at Rehman Building, Ground Floor, Veer Nariman Road, Mumbai-400 001."

2. In my opinion, there is no tangible reason for which the relief as claimed by the plaintiffs for being transposed as defendants in view of the settlement, can be resisted by the plaintiff no.2. The said plaintiffs 3 to 5, 6(a), 6(b) and 7(b), 7(c) and 7(d), 8 and 9 who are the applicants in this Chamber Summons assert that they have already settled the matter with defendant no.1 along with defendant nos.2 and 3 for which reason they now would like to be transposed as defendants instead of continuing the proceedings as plaintiffs. In the circumstances, in the interest of justice, the Chamber Summons is made absolute in terms of prayer clause (a). That is, however, without prejudice to the rights and contentions of the plaintiff no.2 so far as merits of the controversy is concerned. Necessary amendment be carried out by the plaintiff no.2 within four weeks from today. Chamber Summons disposed of on the above terms.

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3. Plaintiff no.2 shall furnish fresh cause title so as to avoid any confusion regarding parties to the main proceedings. It will be open to the plaintiff no.2 to carry out consequential amendments in the plaint, if so advised.

(A.M.KHANWILKAR, J.)